

IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF WEST VIRGINIA  
AT BLUEFIELD

ERIC THOMAS MYERS,

Movant,

v.

CIVIL ACTION NO. 1:18-00979  
CRIMINAL NO. 1:16-00223

UNITED STATES OF AMERICA,

Respondent.

**MEMORANDUM OPINION AND ORDER**

By Standing Order, this action was referred to United States Magistrate Judge Dwane L. Tinsley for submission of findings and recommendation regarding disposition pursuant to 28 U.S.C. § 636(b)(1)(B). Magistrate Judge Tinsley submitted to the court his Proposed Findings and Recommendation ("PF&R") on November 9, 2020, in which he recommended that the court deny movant's<sup>1</sup> § 2255 motion as moot, given movant's release from federal custody on November 8, 2019, and the lack of a further term of supervised release ensuing thereafter. (See ECF No. 112.)

In accordance with the provisions of 28 U.S.C. § 636(b), the parties were allotted fourteen days and three mailing days in which to file objections to the PF&R. The failure of any

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<sup>1</sup> The PF&R uses the terms "Movant," "Defendant," and "Petitioner" interchangeably to identify Mr. Myers.

party to file such objections within the time allowed constitutes a waiver of such party's right to a de novo review by this court. Snyder v. Ridenour, 889 F.2d 1363 (4th Cir. 1989).

Neither party filed any objections to the PF&R within the required time period. Accordingly, the court adopts the PF&R as follows:

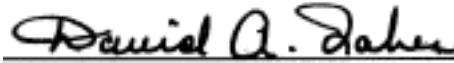
1. Movant's Motion to Vacate, Set Aside, or Correct Sentence (ECF No. 90) is **DENIED** as moot; and
2. This action is **DISMISSED** from the court's docket.

Additionally, the court has considered whether to grant a certificate of appealability. See 28 U.S.C. § 2253(c). A certificate will not be granted unless there is "a substantial showing of the denial of a constitutional right." 28 U.S.C. § 2253(c)(2). The standard is satisfied only upon a showing that reasonable jurists would find that any assessment of the constitutional claims by this court is debatable or wrong and that any dispositive procedural ruling is likewise debatable. Miller-El v. Cockrell, 537 U.S. 322, 336-38 (2003); Slack v. McDaniel, 529 U.S. 473, 484 (2000); Rose v. Lee, 252 F.3d 676, 683-84 (4th Cir. 2001). The court concludes that the governing standard is not satisfied in this instance. Accordingly, the court **DENIES** a certificate of appealability.

The Clerk is directed to send a copy of this Memorandum Opinion and Order to counsel of record and any unrepresented parties.

**IT IS SO ORDERED** this 14th day of June, 2021.

ENTER:

A handwritten signature in black ink, reading "David A. Faber", is written over a horizontal line.

David A. Faber  
Senior United States District Judge